UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

Civil Action: ____________________

JAMES MILLION AND
GLORIA MILLION

Judge: __________________________

VERSUS

JURY TRIAL REQUESTED

ABBVIE, INC,
ABBOTT LABORATORIES,
AND ABBVIE PRODUCTS, LLC

Magistrate: ______________________

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COMPLAINT

Plaintiffs **James Million** and **Gloria Million**, for this Complaint against Defendants who alleges as follows:

NATURE OF ACTION

1. This action arises out of Defendants' actionable conduct and omission of corrective action in connection with the personal injuries of the Plaintiffs.

PARTIES

1. The **plaintiff, James Million** (*hereinafter referred to as "**James**"),* is a resident of the United States and of Gonzales, LA and is and was at all times relevant herein a resident of the parish of Ascension, State of Louisiana. All actions committed against the plaintiff were conducted in Gonzales, Louisiana.
2. The **plaintiff, Gloria Million (***hereinafter referred to as "**Gloria**"*), is the spouse of **James Million** and a resident of the United States and of Gonzales, LA and is and was at all times relevant herein a resident of the parish of Ascension, State of Louisiana. All actions committed against the plaintiff were conducted in Gonzales, Louisiana.
3. The **defendant, ABBVIE, INC,** is a foreign corporation with Principal Place of Business Illinois.
4. The **defendant, ABBOTT LABORATORIES,** is a foreign corporation with Principal Place of Business in Illinois.
5. The **defendant, ABBVIE PRODUCTS, LLC,** is a foreign corporation with Principal Place of Business in Illinois and operates as subsidiary of Abbvie, Inc.

JURISDICTION AND VENUE

2. Jurisdiction of this matter is based upon diversity of citizenship, 28 U.S.C. 1332, (a)(1), 28 U.S.C. 1332, (b)(1), the matter in controversy, exclusive of interest and cost, far exceed the sum of $75,000, and the matter has been designated as a multidistrict litigation case pursuant to 28 U.S.C. 1407.

3. Jurisdiction and venue are proper in that all acts and omissions, including plaintiff's (**James Million**) consumption of Androgel manufactured, supplied, and distributed by the defendants complained of herein occurred in the Gonzales, State of Louisiana.
4. Said defendants are justly and truly indebted to petitioners, **James Million** and **Gloria Million**.

FACTULA ALLEGATIONS

5. Upon information and belief Androgel is a pharmaceutical drug designed, developed, researched, manufactured, tested, promoted, advertised, marketed, sold, and/or distributed by the defendants.
6. Andgrogel is used for testosterone replacement.
7. Sometime between 2008 and 2010, plaintiff**,** James was prescribed Androgel and began using it as instructed by his doctor and he continued using Androgel for several years.
8. In February of 2016, **James** was transported to the hospital by ambulance and admitted into the Intensive Care Unit. Subsequently, plaintiff, James was diagnosed with having severe life threatening Pulmonary Embolism's, which nearly became fatal.
9. Defendants falsely advertised Androgel as safe and effective treatment for testosterone replacement.
10. Defendants knew that wrongfully advertised Androgel as safe, although they knew of the long term side effects to consumers, including the plaintiff, James.
11. Defendants knew that Androgel was defective and likely to cause harmful side effects.
12. As a direct and proximate result of the defendants' actions, the plaintiffs were substantially injured and damaged

STATEMENT OF RELIEF

13. The foregoing paragraphs are re-alleged and incorporated by reference herein.

COUNT I
(Strict Liability- Design Defect)

14. Plaintiffs incorporate by reference the following allegations.
15. The plaintiff's, James injuries were caused by the product, Androgel, which was manufactured, distributed, and sold and was in a defective condition and unreasonably dangerous when put to a reasonably anticipated use for reasons including but not limited to:
    a. There were inadequate instructions from defendants to plaintiff, **James** as to the potential risks of harm associated with the normal use of Androgel.
    b. Andorgel was inherently and substantially dangerous.
16. As a direct and proximate result of the defendants' defective product, the plaintiffs were substantially injured and damaged.
17. WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT II
(Strict Liability- Failure To Warn)

18. Plaintiffs incorporate by reference the following allegations.
19. At all times hereto, defendants manufactured, distributed, and sold Androgel causing the plaintiff, James to suffer severe life threatening injuries resulting from the following:
    a. In failing to properly and adequately warn the plaintiff, James and other consumers of the potential risks of side effects associated with Angrogel;

b. In failing to warn plaintiff, James and other consumers that the potential risks presented a substantial danger when used;

20. The defendants' failure to warn the plaintiff, James of the potential risks associated with the use of Androgel was a substantial factor in causing the plaintiffs injuries.

21. As a direct and proximate result of the defendants' failure to the warn the plaintiffs of the aforesaid potential risks associated with the use of Androgel, the plaintiffs were injured and damaged.

22. WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT III
(Negligence)

23. Plaintiffs incorporate by reference the following allegations.

24. The defendants were negligent in the following respects:

    a. In failing to provide adequate and effective warning of the potential risks associated with the use of Androgel;

    b. In failing to warn plaintiff, James and other consumers that the potential risks presented a substantial danger when used

25. As a direct and proximate result of the defendants' negligence, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT IV
(Negligent Misrepresentation)

26. Plaintiffs incorporate by reference the following allegations.

27. The defendants showed negligent misrepresentation in the following respects:

   a. Defendants' failure to properly label and provide accurate truthful information about the safety of Androgel;

   b. Defendants' failure to truthfully inform plaintiff, James and other consumers as to the long term side effects of using Androgel;

   c. Defenants' failire to properly, adequately and truthfully inform the plaintiff, James and other consumers as to the potentially likelihood of seriously dangerous injuries or harm.

28. As a direct and proximate result of the defendants' negligent misrepresentation, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT V
(Breach of Implied Warranty of Merchantability)

29. Plaintiffs incorporate by reference the following allegations.

30. The defendants breached implied warranty of merchantability in the following respects:

    a. Defendants failed to provide the plaintiff, James and other consumers, the drug Androgel as a product that was reasonably fit for the purpose for which it was sold.

31. As a direct and proximate result of the defendants' breached implied warranty of merchantability, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT VI
(**B**reached of Expressed Warranty)

32. Plaintiffs incorporate by reference the following allegations.

33. As a direct and proximate result of the defendants' breached of expressed warranty, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT VII
(Fraud)

34. Plaintiffs incorporate by reference the following allegations.

35. The defendants' committed acts of fraud in the following respects:

   a. Defendants manufactured, distributed, and sold a defective product to consumers and advertised and/or represented in manner inconsistent with its potential harmful risks;

   b. Defendants were aware of the danger associated with the use of Androgel to the plaintiff, James and other consumers, but chose deliberately to conceal these harmful risks and potential injuries.

36. As a direct and proximate result of the defendants' fraud, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT VIII
(Redhibition)

37. Plaintiffs incorporate by reference the following allegations.

38. The danger to plaintiff, James and other consumers resulting from the redhibitory defects and/or vices related to Androgel was foreseeable by Defendants.

39. As a direct and proximate result of the defendants' redhibition acts, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT IX
(Consumer Protection)

40. Plaintiffs incorporate by reference the following allegations.

41. As a direct and proximate result of the defendants' lack of consumer protection, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT XI
(Unjust Enrichment)

42. Plaintiffs incorporate by reference the following allegations.

43. As a direct and proximate result of the defendants' unjust enrichment, plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

COUNT XII
(Loss of Consortium)

44. Plaintiffs incorporate by reference the following allegations.

45. At the time of the plaintiff, James' injuries, the plaintiffs were married and that the plaintiffs continue to be married.
46. That as a result of the injuries, the Plaintiffs were caused to suffer and will continue to suffer in the future, loss of consortium, loss of society, affection, nurturing, assistance and with respect between plaintiffs, conjugal fellowship, all to the detriment of the martial relationship.
47. As a direct and proximate result of the defendants' actions, plaintiffs were injured and damaged in respects to their loss of consortium.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

CAUSE OF ACTION

LOUISIANA CIVIL CODE ART 2315

48. Plaintiffs incorporate by reference the following allegations.
49. Plaintiff, **James's** use of Androgel caused him to suffer severe life-threatening injuries and damage.
50. Plaintiffs suffered loss of consortium as a result of the defendant's actions.
51. As a direct and proximate result of the foregoing, the plaintiffs were injured and damaged.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

(Punitive Damages)

52. Plaintiffs incorporate by reference the following allegations.

WHEREFORE, plaintiffs **James Million** and **Gloria Million** pray judgment against defendants in an amount exceeding $75,000, for punitive damages, for aggravating circumstances damages, and for costs, prejudgment and post-judgment interest, and further relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that upon a trial hereof they be granted judgment against all named Defendants as follows:

A. Damages as allowed on each Personal Injury and Claim for Relief in an amount equal to the plaintiff's damages sustained, such amount being in excess of the current minimum required for federal court jurisdiction, according to proof at the time of trial;

B. Punitive, Compensatory and exemplary damages;

C. All together with any interest, pre-and post-judgment, costs and disbursements; and Attorney Fees

D. Such other and further relief available under the law and as this Court deems just and proper.

FURTHER, Plaintiff prays that a jury trial is granted in this matter.

RESPECTFULLY SUBMITTED BY:

/s/ JP Gorham

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